

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**


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|--|---|---------------------|
| EXAVIER L. WARDLAW | : | CIVIL ACTION |
| | : | |
| v. | : | NO. 21-1942 |
| | : | |
| THE CITY OF PHILADELPHIA, <i>et al.</i> | : | |

ORDER

AND NOW, this 27th day of December 2021, upon considering the pro se Plaintiff's Motion (ECF Doc. No. 12) to receive notice by US Mail and to appeal a ruling of October 9, 2021 but finding no ruling on October 9, 2021 to appeal, and further noting Plaintiff had not received our December 21, 2021 enclosed Order (ECF Doc. No. 11) when he mailed this motion, it is **ORDERED** Plaintiff's Motion (ECF Doc. No. 12) is **GRANTED in part** and **DENIED in part**:

1. The Clerk of Court shall mail this Order with attached December 21, 2021 Order (ECF Doc. No. 11) to the Plaintiff at his address at 4601 Fernhill Road, Philadelphia, PA 19144; and,

2. Plaintiff's Motion to appeal a ruling on October 9, 2021 is **DENIED** as there is no ruling then nor is there an Order subject to appeal under the Plaintiff's Motion.



KEARNEY, J.


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| v. | : | NO. 21-1942 |
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| THE CITY OF PHILADELPHIA, <i>et al.</i> | : | |

ORDER

AND NOW, this 21st day of December 2021, having issued summonses on June 23, 2021 and alias summonses on August 2, 2021 and then Plaintiff failing to timely show cause or proof of timely service responsive to our November 12, 2021 Order (ECF Doc. No. 8) requiring our December 9, 2021 dismissal of his case for failure to prosecute (ECF Doc. No. 9) but now liberally construing his untimely Motion for issuance of summons (ECF Doc. No. 10) as responding to our November 12, 2021 Order requiring him to show cause (ECF Doc. No. 8) claiming he “never received” the alias summons mailed to him in August 2021, and finding good cause including as the Clerk of Court apparently provided Plaintiff with another copy of the August 2, 2021 summons on December 16, 2021 requiring service as soon as possible and mindful we prefer to resolve cases on the merits but Plaintiff must make immediate efforts to effect service, it is **ORDERED** Plaintiff’s pro se Motion (ECF Doc. No. 10) liberally construed as a response to our November 12, 2021 Order (ECF Doc. No. 8) is **GRANTED** requiring:

1. We **vacate** the dismissal in our December 9, 2021 Order (ECF Doc. No. 9) and the Clerk of Court shall return this case to the active docket; and,
2. Plaintiff is granted one last extension to effect service and file proof of service of the summonses and the Complaint upon each named Defendant no later than **January 14, 2022** or we shall dismiss and close the case.


KEARNEY, J.